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+ **W.P.No.22038 of 2007**

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K.Ganna Reddy, S/o.K.Ramakrishna Reddy.

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$ The Government of Andhra Pradesh,
Rep.by its Secretary, Agriculture & Co-op (Agril.mktg.I) Dept,
A.P.Secretariat, Hyderabad,
And others.

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> H E A D N O T E :

! C o u n s e l Sri B.Vijaysen Reddy e t i t i o n e

^ C o u n s e l Government Pleaders for Agriculture, e
Sri V.Venkataramana, and
Sri V.V.Narayana Rao.

? C A S E S R E F E R R E D : -

1. 2003 (6) SCC 675
2. AIR 1985 SC 582
3. (1994) 6 SCC 332
4. (1999) 7 SCC 569
5. (2005) 7 SCC 627
6. (2007) 7 SCC 206
7. AIR 1967 SC 295

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THE HON'BLE SRI JUSTICE P.S.NARAYANA

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WRIT PETITION No.22038 of 2007

Dated:06-12-2007

Between:

K.Ganna Reddy, S/o.K.Ramakrishna Reddy.

…Petitioner

and

The Government of Andhra Pradesh,
Rep.by its Secretary, Agriculture & Co-op (Agril.mktg.I) Dept,
A.P.Secretariat, Hyderabad,
and others.

…Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.22038 of 2007

ORDER:

The petitioner, K.Ganna Reddy, filed the present Writ Petition praying for issuance of writ of certiorari to call for records pertaining to G.O.Rt.No.1284, dated 08.10.2007, issued by the first respondent, to set aside the same and pass such other suitable orders.

2. Though it is specified as 08.10.2007 in the relief prayed for in the Writ Petition, G.O.Rt.No.1284 appears to be dated 06.10.2007, by Agriculture & Cooperation (Agrl.Mktg.I) Department. The impugned order had referred to allegations 1, 2, 3 and 17 and the said allegations are hereunder:

> "Allegation No.1: It was alleged in the petition that (15) licenses were suspended and revoked.
>
> Allegation No.2: The allegation is that during the month of April, 2006, one licenses Sri Oruganti Rama Murthy & Bonagiri Venkateshwarlu, Commission Agents were suspended and were Revoked within (10) days without the

Resolution of the Market Committee for having excessively Weighed Red gram in their Adthis.

Allegation No.3: It is alleged that notices had been given to one Sri Immadi Chandrasekar, Commission Agent for having collected excess commission charges and other charges and shown difference of amounts in the bills of farmers but no action has been taken.

Allegation No.17: It is alleged that the license of Nimmala Papa Rao, Commission Agent was suspended for payment of lesser amount of Rs.30/- against the rate quoted in the tender for the produce of a farmer on 08.12.2005 whereas the licence of Immadi Chandra Shekar, Commission Agent has been restored though he has shown a difference of Rs.10,000/-. The Chairman has allowed the Commission Agent to carry on the business by taking bribe."

3. The relevant portion of the impugned order in paragraphs 5, 6 and 7 read as hereunder:

"5. The petitioner has stated that all decisions under the above 4 allegations are made in pursuance of market committee resolutions. Every Director of the market committee who is a party to the resolution has to be fastened with equal liability if it is found that the actions of the market committee are illegal or contrary to rules. But by initiating action only against him, the authorities are acting with maladies and arbitrariness that in collective decisions, one person could not be fixed with liability, while leaving the others scot-free that action of the Department is discriminatory that all the decisions of the market committee were taken under the guidance of Secretary, Agricultural Market Committee their even assuming that there are any technical irregularities, it is the Secretary, Agricultural Market Committee, who should be held responsible as under rule 31(4) of A.P.Market Rules and it is the Secretary who has to advise the Chairman and committee members about the acts, rules and bye-laws. He further representation his imposition of minor penalty of

levying fine or major penalty of cancellation of license, is the discretion of the market committee. Such decisions to revoke licenses have been taken collectively by the committee of Agricultural Market Committee and keeping in view of facts and circumstances involved in a every particular case of the concerned commission agent. He relied on judgment of Supreme Court reported in 1996 (6) SCC 514.

6. The Commissioner & Director of Agricultural Marketing, who was consulted in the matter has stated that licenses will be granted to those who are trading in notified Agricultural Produce, Livestock and products of livestock in the notified area under section 7(1) of A.P(AP&LS) Markets Act, 1966, that the Market Committee may be a resolution passed in a meeting or by circulation approved by majority consisting of not less than four of its members cancel or suspend the licenses granted to any Commission Agent or trader or any other person licensed under sub section (1) of section 7 of the Act, by satisfying the conditions laid down under Rule 52 of the A.P (AP&LS) Market Rules, 1969 and that is also a provision for appeal from the orders canceling and suspending the license under Rule 53 of the said Rules, on the orders of the Market Committee either on cancellation or suspension of license within a period of 90 days before the Director. He has further submitted that the contention raised by the CAMC, Suryapet that the Market Committee has got inherent power to revoke the suspension, is not correct since there is a separate provision under Rule 53, providing for appeal on the orders of cancellation or suspension of license and that there is a specific provision under Rule 53, the committee cannot take any action after suspension of license. He further stated on the contention raised by the CAMS, that if the explanation is accepted by the committee, the suspension period will not be continued or the suspension will be revoked that though, it is a fact that the Market Committee has taken a resolution for revocation of license, it is a circulation meeting conducted and not ratified in the subsequent meeting held and the CAMC, violated the Statutory Rules.

7. Government have examined the representation of

> the Chairman, Agricultural Market Committee, Suryapet, Nalgonda District in the light of the above report of the Commissioner & Director of Agricultural Marketing and observes that the Chairman, Agricultural Market Committee, Suryapet violated the statutory rules and as the Chief controlling authority and supervisory authority of the Agricultural Market Committee he cannot escape his responsibility by throwing the issue on others and there by he became unfit to continue in office. Accordingly Government in exercise of the power under section 5(5) of the A.P. (AP&LS) Market Act, 1966, hereby remove Sri Ganna Reddy, Chairman, Agricultural Market Committee, Suryapet, Nalgonda District from the post of Chairman, Agricultural Market Committee, Suryapet, Nalgonda District with immediate effect."

4. No doubt, the issuance of the show cause notice, the reply and what had been specified in the reply, all these aspects also had been referred to in paragraphs 3 and 4 of the impugned order.

5. Counter affidavits of respondents 1 and 6 were filed and a common reply affidavit also had been filed.

6. Sri Vijaysen Reddy, learned Counsel representing the writ petitioner had taken this Court through the contents of the affidavit filed in support of the writ petition, the respective stands taken in the counter affidavits of respondents 1 and 6 as well, and the reply affidavit. Learned Counsel would maintain that the role of the sixth respondent being limited, sixth respondent cannot be permitted to advance certain contentions beyond his limited locus. Learned Counsel also would maintain that this is a case of collective decision and all the allegations relate to the suspension of licence and revocation of licence without any authority, and these decisions being collective decisions as per

the provisions of the Andhra Pradesh (Agricultural Produce & Livestock) Markets Act, 1966 (hereinafter in short referred to as 'the Act' for the purpose of convenience) and also the Andhra Pradesh (Agricultural Produce & Livestock) Markets Rules, 1969 (hereinafter in short referred to as 'the Rules' for the purpose of convenience), the impugned action cannot be sustained. Learned Counsel also had taken this Court through the factual details and would maintain that this controversy arises because of the personal animosity which respondent No.6 is having towards the writ petitioner, being a rival personality belonging to the same political party aspiring for the same Office. Learned Counsel also made elaborate submissions on the expression "willful' in Section 5(5) of the Act and also incidentally referred to Sections 6-A and 6-B of the Act. While further elaborating his submissions, the learned Counsel also pointed out to Rules 26, 27, 28, 52 and 53 of the Rules as well. Learned Counsel also had taken this Court through the relevant portion of the impugned order and would maintain that in the light of such vague allegations, it cannot be said that there was formation of any opinion whatsoever and since the provisions of the Act and the Rules do not contemplate any individual exercise of power in relation to such decisions the writ petitioner alone cannot be held responsible in relation to the impugned order, on the strength of such allegations that too in the light of the opinion formed on the strength of some other opinion it cannot be said that the Government had exercised the formation of opinion independently. Learned Counsel also explained the procedure which may have to be followed in this regard and further pointed out that the concerned Secretary is expected to guide as per Rule 34 of the Rules. Incidentally, the Counsel also pointed out to certain of the concepts of Service jurisprudence inclusive of the proportionate of punishment,

and would maintain that at any rate, the impugned order is totally disproportionate to the allegations made even if the findings are to be taken to be in accordance with law. Learned Counsel also made certain submissions relating to Article 14 of the Constitution of India and explained the distinction between the nomination post and the pleasure post and the tenure post as well and further would maintain that this is not a case where presumption under Section 114 of the Indian Evidence Act, 1872, can be drawn. Learned Counsel placed strong reliance on several decisions to substantiate his submissions.

7. Learned Government Pleader for Agriculture would maintain that it is true that on the strength of the complaint made by respondent No.6 Enquiry Officer conducted an enquiry and though in the complaint several allegations were made, only certain allegations were proved. A report was forwarded to the Government and a show cause notice was issued, reply was considered and the procedure had been followed. The explanation is to the effect that the Committee has got inherent powers and hence, in the light of the defence taken and the assertion made it may have to be taken that the same is willful. It is nothing but abuse of position. Learned Government Pleader for Agriculture also had placed strong reliance on the language of Rule 28(1) of the Rules and would maintain that in the light of the said language, the petitioner cannot take such a defence that since it is a collective decision, he cannot be held responsible. Learned Government Pleader for Agriculture also had taken this Court through Section 5(5) of the Act and Rules 52 and 53 of the Rules apart from Rule 28(1) of the Rules in particular. After making elaborate submissions in the light of the stand taken in the counter affidavit, learned Government Pleader for Agriculture would contend that this is

a writ of certiorari and it is not the case of the petitioner that the procedure was not followed or there is any flaw in the decision making process. In the absence of the same, the writ petition deserves a dismissal.

8. Sri V.V.Narayana Rao, learned Counsel representing respondents 4 and 5 adopted the submissions of the learned Government Pleader for Agriculture.

9. Sri V.Venkataramana, learned Counsel representing respondent No.6 would maintain that it may be true that the writ petitioner and the sixth respondent may be aspiring for the same Office. Learned Counsel submits that the power of appointment would imply the power of termination as well. No procedural irregularity or illegality as such had been pointed out. Even on applying the wednesbury principle it is not a fit case to be interfered with for the reason that the power to be exercised by the Government, being self regulatory, the opinion of the Government as reflected from the impugned order may have to be given due weight. The Government recorded its own reasons. Such reasons cannot be found fault, especially, for the reason that Section 5(5) of the Act is not regulated by any eligibility criteria whatsoever. The decisions in relation to the expression “willful” either under the Contempt of Courts Act or the Rent Control legislations cannot be made applicable to the facts of the present case, and the same standard cannot be applied. Further, the learned Counsel would maintain that there are no malafides averred against R1 to R5. While concluding, the learned Counsel would explain that in view of the limitations imposed on this Court while exercising certiorari jurisdiction, this writ petition is liable to be dismissed. Learned Counsel placed reliance on certain decisions.

10. Heard the learned Counsel and perused the records.

11. The relevant portions of the impugned order and the relief prayed for in the writ petition already had been specified above. The petitioner was appointed as Chairman of A.P.Agricultural Market Committee, Suryapet, on 18.11.2005 and since then he had been discharging his duties duly following the provisions of the Act and the Rules made there under. He submits that respondent No.6 is his political rival. The petitioner and the sixth respondent belong to congress party. Both of them were in fray for Chairmanship of Agricultural Market Committee (AMC), Suryapet. Despite several efforts, the sixth respondent was unsuccessful in getting himself appointed as Chairman AMC. Presently, the sixth respondent is President of Town Congress Committee, Suryapet. Boring grudge against the petitioner, the sixth respondent lodged a complaint on 04.10.2006 to the then Hon'ble Minister, Agricultural Marketing Committee leveling 14 allegations of irregularities against the petitioner. A copy of the complaint was forwarded to the second respondent and action was sought to be initiated against the petitioner for the alleged irregularities. The fifth respondent was appointed as enquiry officer by the second respondent pursuant to the complaint lodged by the sixth respondent. The fifth respondent conducted enquiry on 09.04.2007 and submitted his report to the first respondent. The petitioner was not issued any notice of enquiry report and hence the petitioner made a representation on 09.07.2007 to the official respondents for supplying copy of the complaint and for giving reasonable opportunity for his explanation. Since there was no response from them, the petitioner filed W.P.No.15623 of 2007 on 19.07.2007 before this Court, which was dismissed as withdrawn by

order dated 24.07.2007 giving the petitioner liberty to work out remedy as and when cause of action accrues.

12. It is also averred that immediately after dismissal of W.P.No.15623 of 2007, the respondents issued the impugned notice dated 27.07.2007 calling upon the petitioner to submit explanation within 15 days as to why he should not be removed as Chairman, AMC, Suryapet. In the show cause notice, it is stated that enquiry was conducted by the third respondent on 21 allegations against the petitioner and in such enquiry, it was allegedly found that 4 allegations are proved. Along with the show cause notice, the enquiry report of the fifth respondent and copy of complaint lodged by the sixth respondent was also furnished to the petitioner. Until receipt of show cause notice and annexure, the petitioner did not have knowledge of contents of the complaint, as the petitioner was not served with copies of the same. As per the show cause notice, the allegations mentioned supra are held to be proved.

13. It is further averred that the petitioner filed W.P.No.16740 of 2007 challenging the show cause notice dated 27.07.2007 on various grounds. The writ petition was disposed of by an order dated 10.08.2007, giving the petitioner liberty to submit his explanation to the show cause notice and if any adverse order is passed, it was held by this Court that it should not come into force for a period of 10 days from the date of service of order. In pursuance of the order of this Court, the petitioner submitted his detailed explanation dated 18.08.2007 to all the four allegations leveled against him. Inter alia, the petitioner contended that, in all the cases of revocation of suspension of license, decisions were taken pursuant to resolution of the market committee.

14. It is also stated by the petitioner that in collective decisions liability cannot be fastened only on the petitioner, while leaving others scot free and that every Director of the market committee who is a party to the resolution has to be fixed with liability. The first respondent without considering his explanation in proper prospective passed the impugned order, which is purported to be on the report of the second respondent. It appears from paragraph 6 of the impugned order that the second respondent has opined that market committee does not have inherent power to revoke the suspension and that under Rule 53 of the Rules, there is a provision for appeal against the cancellation or suspension of licence. In his report, the second respondent has further pointed out that though revocation of licence is made pursuant to market committee resolution, such resolution is passed in a circulation meeting conducted and not ratified in the subsequent meeting and the petitioner violated the statutory rules.

15. It is also averred that with regard to the above four allegations all decisions taken for revocation of licenses of various commission agents, were in pursuance of resolutions passed by the Market Committee. In every case of revocation of license or levy of penalty, decision was taken only upon resolution of the Market Committee. The petitioner never took any individual decision as alleged by the fifth respondent in his enquiry report. In connection with allegation No.1, with regard to revocation of 15 licenses of commission agents, resolution was passed by the market committee on 28.11.2005. All the directors of the Market Committee duly signed the resolution which also contains the endorsement of the fourth respondent. So, it is clear that the fifth respondent without even properly verifying the records held that allegation No.1 is proved.

16. It is further stated that with regard to allegation No.2, the finding of the fifth respondent in his report is that, licenses of 2 commission agents M/s.Oruganti Ramamurthy and Bonagiri Venkateshwarlu were revoked by imposing penalty of Rs.500/- each and that the revocation is made through Market Committee resolution dated 06.04.2006. But, surprisingly, in the show cause notice dated 27.07.2007, it was mentioned that the licenses of these 2 commission agents were suspended and revoked without market committee resolution.

17. It is also averred that with regard to allegation No.3, the complaint is that no action was taken against one Immadi Chandrasekar, commission agent for having collected excess commission charges etc. The market committee by its resolution dated 16.01.2006 levied penalty on him by collecting Rs.968.58/- in addition to penalty of Rs.500/-. The decision to levy penalty was taken by the market committee resolution duly signed by all the Directors and endorsed by the fourth respondent. The decision to levy penalty only is a collective decision of the market committee and not by individual decision. The market committee having weighed pros and cons of the situation, have taken the decision to levy penalty. So, the finding of the fifth respondent that allegations against Immadi Chandrasekar are serious and that AMC should have prosecuted him is untenable and baseless. In every case of irregularity, it is not necessary to lodge a criminal complaint. In this case the licence was neither revoked nor suspended. So, the question of appeal being filed by the commission agent as pointed by the fifth respondent is totally baseless. The AMC having verified the accounts of Immadi Chandrasekar found that, he has collected excess charges of Rs.968.58/- from the farmers and the said amount was returned to the concerned farmers, in addition to

levying fine of Rs.500/- as fine (badar) on the commission agent. Levy of penalty or prosecution is the discretion of the AMC. In every case prosecution is not necessary. So the opinion of the fifth respondent that AMC is not having power of appellate authority is totally extraneous to the fact situation.

18. It is further averred with regard to allegation No.17 the finding of the fifth respondent is that Nimmala Papa Rao was suspended for payment of lesser amount of Rs.30/- against the rate quoted in the tender, for the produce of a farmer on 08.07.2005. Whereas, the licence of commission agent Immadi Chandrasekar had been restored though he has shown a difference of Rs.10,000/-. The main allegation is that, the petitioner allowed the commission agent to carry on business by taking bribe of Rs.10,000/- and that the market committee vide resolution dated 16.01.2006 revoked the license of the commission agent, but the Chairman restored the license. The allegation is incorrect as, for the first irregularity penalty was levied against the commission agent as decided by the resolution of the market committee on 16.01.2006 duly signed by the Directors and endorsed by the fourth respondent. The allegation No.17 in the show cause notice is ambiguous and it is not known what is the nature of allegation. Moreover, the said allegation is not in tune with the enquiry report.

19. It is also further averred that the impugned order is beyond the scope of show cause notice. The impugned order is very vague and does not specify the statutory rules violated by the petitioner. Rule 52 of the Rules deals with the power of suspension and cancellation of licenses. Rule 52(2) of the Rules mandates, show cause notice issued to the licensee before his licence is cancelled or suspended.

So, when reply is submitted by the licensee to the show cause notice issued by the AMC, if the AMC is satisfied with the reply, the AMC is bound to revoke the suspension. The provision of appeal under Rule 53 of the Rules can be availed by the aggrieved party, if cancellation order is passed or suspension order is continued being not satisfied with the reply to the show cause notice. So, it cannot be said that in every case of suspension, revocation has to be done by the appellate authority only. Under general law of interpretation of statutes, the power of suspension carried with it the inherent power to revoke the suspension. With regard to the other anomaly pointed out by the second respondent, regarding resolution made through circulation meeting and not ratified through subsequent meeting, it is submitted that such circular resolution was passed only in case of allegation No.1. The bye-law No.7 of A.P.Market Committee, empowers AMC to pass resolutions through circular meetings. Invoking such Rule, suspension of 8 licenses covered under allegation No.1 is revoked. It is the duty of the fourth respondent to enter such resolution in next meeting agenda, which is not done so. It is a lapse on the part of the fourth respondent and more so, technical in nature. Further the allegation regarding circular meeting was not mentioned in the show cause notice dated 27.07.2007. So, the impugned order in this regard is beyond the scope of show cause notice.

20. It is also stated that the Government on its own has not formed an opinion about the alleged violation of statutory rules. The show cause notice is issued by the fifth respondent through the second respondent. So, the second respondent is very much aware of the proposed action for removal. So, seeking his report regarding the alleged violations amounts to acting with bias. The impugned order on

the face of it is clear that it is passed on the opinion given by the second respondent. The Government has not independently applied its mind and there are no reasons given by the Government in passing the impugned order.

21. It is also further averred that all the above four allegations are false and incorrect. The decisions which are subject matter of the above four allegations are all supported by market committee resolutions. Every Director/Secretary of market committee who are party to the resolutions/decisions have to be equally held responsible. When decisions of a committee are being questioned, fixing alleged liability only on the petitioner demonstrates the arbitrary action of the respondent authorities. The action of the respondents is violative of Article 14 of the Constitution of India. The petitioner cannot be individually made liable for collective decisions. All the members of AMC, including Secretary have to be made answerable for the collective decisions. So, giving discriminatory treatment to the petitioner by leaving out the Directors of the market committee and Secretary shows malafide intentions of the respondent authorities. Merely because, power is vested in the Government, it cannot be exercised in an arbitrary and highhanded manner.

22. The opinion as required under Section 5(5) of the Act, needs subjective satisfaction of the Government which is lacking in the instant case. All the decisions of the market committee were taken under the guidance of the fourth respondent as contained under Rule 31 of the Rules. Under subrule (4) of Rule 31, it is the duty of the Secretary to advice the chairman and committee members about the provisions of the Act, Rules and byelaws. For all the foregoing reasons, the show cause notice dated 27.07.2007 is liable to set aside

as illegal, arbitrary and unconstitutional.

23. In the counter affidavit filed by the first respondent sworn by the Assistant Secretary to Government, Agriculture & Cooperation Department, Secretariat, certain facts were not specifically denied for want of knowledge. It is averred that it has been brought to the notice of this respondent by the second respondent that a representation was received from the sixth respondent making certain allegations against the petitioner with regard to the functioning as Chairman of the Agriculture Market Committee, Suryapet. Pursuant to the said representation dated 04.10.2006 action was initiated by the second respondent by directing the Joint Director of Marketing, Warangal, to conduct enquiry and submit report. Thereon, the Joint Director of Marketing visited the Agriculture Market Committee, Suryapet, on 09.04.2007 and after following the due procedure by issuing notice to the complainant as well as to the writ petitioner and also recording the statement of the Secretary, Agriculture Market Committee submitted a report on 21.05.2007. During the course of enquiry, some more allegations were also brought to the notice of the enquiry officer by the sixth respondent.

24. While submitting report, the enquiry officer also conducted enquiry on all the allegations including the other allegations and submitted report on 21.05.2007. In the report, the enquiry officer came to the conclusion that the petitioner has violated certain mandatory provisions of the Act and found that among all the allegations, 4 allegations have been proved. Thereafter, the said report has been forwarded by the second respondent to this respondent for taking necessary action. While that being so the petitioner has approached this Court by filing W.P.No.15623 of 2007 contending that the

respondents are initiating action for removing the petitioner from the post of Chairman of Agriculture Market Committee, Suryapet. The said writ petition came up for hearing before this Court on 24.07.2007 and on that date this Court passed final orders dismissing the said writ petition as withdrawn. Thereafter a show cause notice was issued on 27.07.2007 as to why the petitioner should not be removed basing on the findings of the enquiry report and directed the petitioner to submit explanation within the period of 15 days. The said show cause notice was served on the writ petitioner on 28.07.2007. Instead of submitting the explanation, the petitioner approached this Court by filing W.P.No.16740 of 2007, challenging the show cause notice dated 27.07.2007 as illegal, arbitrary and unconstitutional. The said Writ Petition came up for hearing on 10.08.2007 and on that date this Court passed final orders by disposing the writ petition and directed the petitioner to submit his explanation to the show cause notice within a period of ten days from the date of the order and further direction was also given, that if any adverse orders to the interest of the petitioner are passed, it shall not come into force for a period of ten days from the date of the service of the order. As per the directions of this Court in W.P.No.16740 of 2007 the petitioner submitted his explanation on 18.08.2007. Thereafter taking into consideration the findings of the enquiry report as well as the explanation submitted by the writ petitioner and also taking into consideration the various provisions under the Act, decision was taken and in exercise of the powers conferred under Section 5 of the Act orders were passed by removing the petitioner from the post of Chairman, Agriculture Market Committee, Suryapet, vide G.O.Rt.No.1284, dated 06.10.2007. As such, the impugned order was passed by following due process of law and there is no infirmity in passing the impugned order.

25. Further, it is stated that pursuant to the show cause notice, the petitioner submitted his explanation on 18.08.2007 wherein the petitioner stated that with regard to the charges of revocation of suspension of licence, decision was taken pursuant to the resolution of the Agricultural Market Committee, Suryapet, and also contended that it was the collective decision and therefore liability cannot be fixed against him while leaving the other Directors of the Agricultural Market Committee, Suryapet, who are also responsible for taking the collective decision. But the said contention cannot be considered in view of the specific provisions made in Rule 28 of the Rules which contemplates that the Chairman of the Market Committee shall be the chief controlling and supervision authority of the Market Committee and all the officers or servants of the market committee shall be subject to the provisions of the Act and of the Rules and bye-laws and to the directions if any given by the market committee be subject to his control.

26. Further, the sub-Rule (2) of Rule 28 of the Rules also postulates various duties of the Chairman of the Market Committee. In view of this specific provision, the Chairman of the Market Committee is responsible for all the decisions taken by the Agricultural Market Committee. As such, the contention of the petitioner that his explanation has not been considered in a proper prospective and accordingly the impugned order was passed is not correct. With regard to other allegations, the second respondent has opined that the Agricultural market Committee does not have any inherent power to revoke suspension under Rule 53 of the Rules and there is a provision for appeal against the cancellation or suspension of licence and

therefore, the committee cannot take action for suspension of licence. In this connection, it is submitted that the enquiry officer has already considerd the said charge and after taking into consideration various provisions of the Act, has given findings that the said allegations made against the petitioner have been proved.

27. It is further averred that it is the contention of the petitioner that in every case of revocation of suspension of licence or levy of penalty decision was taken only upon the resolution of the Market Committee and he never took any individual decision. In this connection, it is submitted that as already stated above, though the Market Committee passed resolution but as per Rule 28 of the Rules, the Chairman of the Market Committee is responsible and accordingly, the liability was fixed on the petitioner. As such, the contention of the petitioner that the enquiry officer without verifying the records held that the allegation No.1 has been proved is not correct.

28. Further, it is averred that the contention of the petitioner that the revocation of licences belonging to agents M/s.Oruganti Ramamurthy and Bonagiri Venkateshwarlu were revoked by imposing penalty of Rs.500/- each and the said revocation order was made through Agricultural Market Committee resolution dated 06.04.2006 but surprisingly, in the show cause notice it was mentioned that the licence of these commission agents were suspended and revoked without Market Committee Resolution. In reply to that it is submitted that though the resolution has been passed by the Market Committee but the same was not ratified and therefore the said circular resolution cannot be taken into consideration as a valid resolution.

29. It is also stated that the reply submitted by the petitioner with

regard to allegation to the show cause notice is not convincing. As stated supra the Market Committee by way of resolution cannot revoke the suspension of the licences. As per Rule 53 of the Rules, the Commissioner and Director of Agricultural Market is the competent authority to deal with the matter. Being the Chief Controller and supervising authority, the Chairman, ought not have entertained the same and pass any such resolution. The Market Committee is not empowered to pass any resolution. The petitioner as Chief Controlling authority of the Market Committee cannot abdicate his responsibility on the members of the Market Committee in the name of collective decision. Government has examined the reply of the petitioner in detail and came to conclusion that the petitioner has violated the provisions of the Market Act and the Rules.

30. It is further averred that the contention of the petitioner that the impugned order is beyond the scope of the show cause notice and the same is very vague does not specify the statutory rules violated by him is not correct. As per the procedure laid down under the Act, show cause notice was issued by calling for explanation and thereafter after taking into consideration the Inquiry report as well as the explanation submitted by the writ petitioner, orders were passed under section 5(5) of the Act. As such, while passing the impugned order, the petitioner was afforded reasonable opportunity as per the provisions of the Act. Further, the enquiry report, reveals that the writ petitioner has abused his power vested in him and accordingly, the petitioner could not be continued as Chairman of the Agricultural Market Committee, and accordingly, the orders were passed. Apart from that the impugned order is very clear, comprehensive and self explanatory. The reply of the petitioner to the show cause notice has been examined by the

respondents in accordance with the provisions of the Act and the Rules and observed that the licenses will be granted to those persons who are trading in notified Agricultural Produce, Livestock and products of livestock in the notified area under Section 7(1) of the Act, that the Market Committee may by a resolution passed in a meeting or by circulation approved by the majority consisting of not less than four of its members cancel or suspend the licences granted to any Commission Agent or trader or any other person licensed under subsection (1) of Section 7 of the Act by satisfying the conditions laid down under Rule 52 of the Rules. Against any such orders there is a provision of appeal under Rule 53 of the Rules within a period of 90 days before the Director.

31. The contention raised by the petitioner that the Market Committee has got inherent power to revoke the suspension, is not correct since there is a separate provision under Rule 53 of the Rules, providing for appeal on the orders of cancellation or suspension of licence and that there is a specific provision under Rule 53, the committee cannot take any action after suspension of license. The contention raised by the petitioner that if the explanation is accepted by the committee, the suspension period cannot be continued or the suspension will be revoked, that though, it is a fact that the Market Committee has passed a resolution for revocation of suspension of license, it is a circulation meeting conducted but not ratified in the subsequent meeting held and the CAMC, violated the Statutory Rules. Further, Government has observed that the Chairman, Agricultural Market Committee, Suryapet, violated the statutory rules and as the Chief Controlling Authority and supervisory authority of the Agricultural Market Committee he cannot escape his responsibility by throwing the

issue on others and thereby the petitioner has abused his powers. Accordingly, the Government in exercise of the power under Section 5(5) of the Act removed Sri Ganna Reddy, Chairman, Agricultural Market Committee, Suryapet, Nalgonda District with immediate effect. Further, it is stated that the contention of the petitioner that the Government in its order has not formed an opinion about the alleged violation of statutory rules is not correct. Basing on the findings of the enquiry officer, action was initiated by issuing show cause notice calling for explanation from the petitioner and thereafter, orders were passed under section 5(5) of the Act. As such, it cannot be said that the Government has not formed an opinion independently.

32. Further, while passing the impugned order, Government has examined the entire issue and concluded that the petitioner has violated the provisions of the Act and the Rules. As such, the impugned order contains elaborate reasons. Further it is stated in paragraph 11 that the contention of the petitioner that the findings on the four allegations are false and incorrect and the decisions which are subject matter of the above four allegations are all supported by the Market Committee resolutions and every Director of the Market Committee who are parties to the resolution have to be equally held responsible. As already stated above, the petitioner who is the Chairman of the Agricultural Market Committee being the Chief Controller and Supervising authority of the Market Committee and as per the provisions of Rule 28 of the Rules, the Chairman is held responsible and as such, the petitioner cannot throw away his responsibility on the other Directors.

33. Further, as already stated above, impugned order was passed basing on the findings made in the enquiry report. Moreover, the

petitioner has sought for relief for issuance of writ of certiorari challenging the impugned orders dated 06.10.2007. In this connection, it is submitted that the Apex Court has rendered decision which was reported in **Surya Dev Rai v. Ram Chander Rai**[1] where under the Supreme Court has reiterated the scope of issuance of writ of certiorari under Article 226 of the Constitution of India can be issued for correcting gross errors of jurisdiction i.e,. a subordinate Court is found to have acted i) without jurisdiction – By assuming jurisdiction when there is exising none or ii) in excess of jurisdiction – By overstepping or crossing the limits of jurisdiction or iii) acting in flagrant disregard of law or the Rules of procedure or acting in violation of principal of natural justice whereunder there is no procedure specified and thereby occasioning the failure of justice. But, in the present case, the impugned order was passed by complying the principles of natural justice and also basing on the findings of the inquiry report and as such, there is no infirmity in passing the orders in removing the petitioner from the post of Chairman, Agriculture Market Committee, Suryapet, Nalgonda District.

34. The sixth respondent, no doubt, filed equally a lengthy counter affidavit. Several of the allegations relating to political rivalry etc., had been denied. It is needless to say that the sixth respondent is the person occupying the Office and his stand may have to be appreciated only to the limited extent, no doubt, in the light of the stand taken by the first respondent in the counter affidavit.

35. In the common reply affidavit filed specific stand had been taken that the stand taken by the sixth respondent that all these grounds are pure questions of fact and hence the writ petition cannot be

maintained, is not a sustainable stand. The grievance of the writ petitioner is on a question of law with reference to the competency and jurisdiction of the Government in passing the impugned order, and the decision making process also had been called in question. Further it is averred that the action is arbitrary, unjust and illegal, and the first respondent had not applied its mind before taking the decision of removal. The report of the enquiry officer is reproduced verbatim and there is no discussion at all about the alleged violation of statutory rules. The first respondent was only guided by the observations made in the second respondent's report. The impugned order is vague and without reasons. The order of removal under Section 5(5) of the Act cannot be by mere formality. It is settled law that when the penal action is contemplated which will have adverse consequences on the future and reputation of the aggrieved persons, the order should be supported by reasons. Further, the allegations made by the sixth respondent in the complaint had been well explained and several aspects have been specifically denied in the reply affidavit. The words of "willful omission" or "willful disobedience" had been emphasized and certain of the Rules also had been referred. Further, specific stand had been taken that the sixth respondent is only a complainant and he had got a limited role to play. Though he can support the impugned action, he cannot be permitted to substitute himself in place of the official respondents. It is for the official respondents to explain as to how the impugned order is sustainable. And certain other averments also had been made in the reply affidavit.

36. Act No.16 of 1966 is an Act to consolidate and amend the law relating to the regulation of purchase and sale of agricultural produce, livestock and products of livestock and the establishment of markets in

connection therewith. Section 2 of the Act deals with definitions. Section 5 of the Act deals with composition of Market Committee. Section 5(5) of the Act specifies that the Government may, by notification, remove the Chairman or Vice-Chairman who in their opinion willfully omits or refuses to carry out or disobeys the provisions of this Act or any rules or bye-laws of lawful orders issued thereunder or abuses his position or the power vested in him, after giving him an opportunity for explanation, and the said notification shall contain a statement of the reasons of the Government for the action taken. Emphasis was laid on the words "who in their opinion willfully omits or refuses to carry out or disobeys the provisions of this Act or any rules or bye-laws", and also on the words "abuses his position or the power vested in him". Incidentally, the words "after giving him an opportunity for explanation" also had been stressed. Section 6 of the Act deals with Reconstitution of Market Committee. Section 6-A of the Act deals with Power of Government or the Director of Marketing to suspend the Chairman of the Market Committee. Section 6-B of the Act deals with Power of Government or the Director of Marketing to withdraw the powers of Chairman.

37. Rule 52 of the Rules deals with Suspension or cancellation of licences, and the same reads as hereunder:

> **"52. Suspension or cancellation of licences:** (1) The market committee may by a resolution passed in a meeting or by circulation and approved by a majority consisting of not less than four of its members, cancel or suspend the licence granted to any commission agent or trader or any other person licensed under sub-section (1) of Section 7, if it is satisfied that -
>
> (a) the licence has been obtained through willful misrepresentation or fraud; or
>
> (b) the holder thereof or any servant or any one, acting

on his behalf with his express or implied permission commits a breach of any of the terms of conditions of the licence or the provisions of these rules or the bye-laws of the market committee; or

(c) the holder of the licence in combination with other holders of licences commits any act or abstains from carrying out his normal business in the market with the intention of willfully obstructing, suspending or stopping the marketing of any notified agricultural produce, livestock or products of livestock in the market area in consequence where of the marketing of such notified agricultural produce, livestock or products of livestock has been obstructed, suspended or stopped; or

(d) the holder of the licence has become an insolvent; or

(e) the holder of the licence is convicted of any offence under the Act.

(2) The market committee before canceling or suspending the licence granted under sub-rule (1) shall issue a notice to the person concerned calling upon him to show the cause within seven days from the service thereof, why the licence should not be cancelled or suspended and consider his reply thereto, if any, received from him before the expiry of the time specified in the notice:

Provided further that the Chairman, Market Committee may suspend the licence of a person who obtains licence under Section 7 of Rule 79 for a period not exceeding 7 days pending ratification by the Market Committee."

38. Rule 53 of the Rules deals with appeal from the orders cancelling and suspending a licence, and the same reads as hereunder:

"53. Appeal from the orders canceling and suspending a licence:- (1) An appeal from the orders of the

Market Committee shall be preferred within a period of ninety days from the date of communication of such orders before the Director. The Director, shall, on receipt of such appeal, call for all the relevant registers and records from the market committee, make or cause such enquiry as he deems necessary and pass orders either confirming or canceling the orders of suspension or cancellation of the licence.

(2) The Director may suspend the execution of the order pending the exercise of his power under sub-rule (1) in respect thereof."

39. Several of the Rules, no doubt, had been referred to by the learned Counsel representing the respective parties. Rule 28 of the Rules deals with powers and duties of Chairman and Vice-Chairman, which reads as under:

"**28. Powers and duties of Chairman and Vice-Chairman:**

(1) The Chairman of the Market Committee shall be the Chief Controlling and supervising authority of the market committee. All officers and servants of the market committee shall, subject to the provisions of the Act and of the rules and bye-laws and to the directions, if any given by the market committee, be subject to his control.

(2) The Chairman shall, -

(a) preside over the meetings of the market committee and of every sub-committee thereof and conduct business at such meetings;

(b) control the financial and executive administration of the market committee;

(c) exercise general supervision and control over the officers and servants employed in connection with the affairs of the market committee (whether such officers or servants are Government servants or not);

(d) in case of emergency, direct the execution or stoppage of any work or the doing of any act which requires the sanction of the market committee.

(3) The Vice-Chairman shall, -

(a) in the absence, of the Chairman, preside over the meetings of the market committee;

(b) exercise such powers and perform such duties of the Chairman as the Chairman may, from time to time, delegated to him; and

(c) exercise the powers and perform the duties of the Chairman during the absence of the Chairman on account of a vacancy in the office of the Chairman or otherwise.

(4) In the absence of both the Chairman and Vice-Chairman, the member elected by the meeting shall preside over such meeting of the market committee."

40. Emphasis was laid on the words in Rule 28(1) of the Rules "the Chairman of the Market Committee shall be the Chief Controlling and supervising authority of the market committee". Elaborate submissions were made on the meaning of the word or expression "willful".

41. In the context of willful default in relation to the Rent Control legislation in **S.Sundaram Pillai v. V. R. Pattabiraman**[2], the Apex Court at paragraphs 21 to 24 observed as under:

> Before, however, going into this question further, let us find out the real meaning and content of the word 'wilful' or the words 'wilful 'default'. In the book 'A Dictionary of LAW' by L. B. Curzon, at page 361 the words 'wilful' and 'wilful default' have been defined thus :
>
> 'Wilful' - Deliberate conduct of a person who is a free agent, knows what he is doing and intends to do what he is doing.
>
> 'Wilful default' - Either a consciousness of, negligence or breach of duty, or a recklessness in the performance of a duty.
>
> In other words, 'wilful default' would mean a deliberate and intentional default knowing full well the legal consequences

thereof. In 'Words and Phrases', Volume 11 A (Permanent Edition) at page 268 the word 'default' has been defined as the non-performance of a duty, a failure to perform a legal duty or an omission to do something required. In Volume 45 of 'Words and Phrases', the word 'wilful' has been very clearly defined thus :

'Wilful' - intentional; not incidental or involuntary;

- done intentionally, knowingly, and purposely, without justifiable excuse as distinguished from an act done carelessly; thoughtlessly, heedlessly or inadvertently;

- in common parlance word 'wilful' is used in sense of intentional, as distinguished from' accidental or involuntary.

P. 296 - "Wilful" refers to act consciously and deliberately done and signifies course of conduct marked by exercise of volition rather than which is accidental, negligent or involuntary.

In Volume III of Webster's Third New International Dictionary at page 2617, the word 'wilful' has been defined thus :

"governed by will without yielding to reason or without regard to reason; obstinately or perversely self-willed."

The word 'default' has been defined in Vol. 1 of Webster's Third New International Dictionary at page 590 thus :

"to fail to fulfil a contract or agreement, to accept a responsibility; to fail to meet a financial obligation."

In Black's Law Dictionary (4th Edn.) at page 1773 the word 'wilful' has been defined thus :

"Wilfulness" implies an act done intentionally and designedly; a conscious failure to observe care: Conscious; knowing; done with stubborn purpose, but not with malice.

The word "reckless" as applied to negligence, is the legal equivalent of "wilful or "Wanton".”

42. In **Niaz Mohammad v. State of Haryana**[3] the Apex Court while dealing with the civil contempt under the Contempt of Courts Act,

1971, observed that disobedience of decree, order, judgment of court must be willful and intentional in order to constitute civil contempt.

43. In **Kapildeo Prasad Sah v. State of Bihar**[4] the ingredients of willful disobedience in the context of civil contempt under the Contempt of Courts Act had been explained.

44. Reliance was also placed on **Hindustan Petroleum Corporation Limited v. Darius Shapur Chenai**[5] and **Bongaigaon Refinery & Petrochemicals Limited v. Girish Chandra Sarma**[6].

45. In relation to the formation of opinion strong reliance was also placed on **Barium Chemicals Ltd v. Company Law Board**[7] wherein the Apex Court while dealing with Section 237(b) of the Companies Act, 1956, and the meaning of the words "if in the opinion of the Central Government" observed:

> "The object of S. 237 is to safeguard the interests of those dealing with a company by providing for an investigation where the management is so conducted as to jeopardize those interests or where a company is floated for a fraudulent or an unlawful object. Clause (a) does not create any difficulty as investigation is instituted either at the wishes of the company itself expressed through a special resolution or through an order of the court where a judicial process intervenes. Clause (b), on the other hand, leaves directing an investigation to the subjective opinion of the government or the Board. Since the legislature enacted S. 637 (i) (a) it knew that government would entrust to the Board its power under S. 237 (b). Could the legislature have left without any restraints or limitations the entire power of ordering an investigation to the subjective decision of the Government or the Board? There is no doubt that the formation of opinion by the Central Government is a purely subjective process. There can also be no doubt that since the legislature has provided for the

opinion of the government and not of the court such an opinion is not subject to a challenge on the ground of propriety, reasonableness or sufficiency. But the Authority is required to arrive at such an opinion from circumstances suggesting what is set out in sub-clauses (i), (ii) or (iii). If these circumstances were not to exist, can the government still say that in its opinion they exist or can the Government say the same thing where the circumstances relevant to the clause do not exist ? The legislature no doubt has used the expression "circumstances suggesting". But that expression means that the circumstances need not be such as would conclusively establish an intent to defraud or a fraudulent or illegal purpose. The proof of such an intent or purpose is still to be adduced through an investigation. But the expression "circumstances suggesting" cannot support the construction that even the existence of circumstances is a matter of subjective opinion. That expression points out that there must exist circumstances from which the Authority forms an opinion that they are suggestive of the crucial matters set out in the three sub-clauses. It is hard to contemplate that the legislature could have left to the subjective process both the formation of opinion and also the existence of circumstances on which it is to be founded. It is also not reasonable to say that the clause permitted the Authority to say that it has formed the opinion on circumstances which in its opinion exist and which in its opinion suggest an intent to defraud or a fraudulent or unlawful purpose. It is equally unreasonable to think that the legislature could have abandoned even the small safeguard of requiring the opinion to be founded on existent circumstances which suggest the things for which an investigation can be ordered and left the opinion and even the existence of circumstances from which it is to be formed to a subjective process. This analysis finds support in Gower's Modern Company Law (2nd Ed.), p. 547 where the learned author, while dealing with S. 165 (b) of the English Act observes that "the Board of Trade will always exercise its discretionary power in the light of specified grounds for an appointment on their own motion" and that "they may be trusted not to appoint unless the circumstances warrant it but

> they will test the need on the basis of public and commercial morality." There must therefore exist circumstances which in the opinion of the Authority suggest what has been set out in sub-clauses (i), (ii) or (iii). If it is shown that the circumstances do not exist or that they are such that it is impossible for any one to form an opinion therefrom suggestive of the aforesaid things, the opinion is challengeable on the ground of non-application of mind or perversity or on the ground that it was formed on collateral grounds and was beyond the scope of the statute."

46. The principal contention advanced by the learned Counsel for the writ petitioner is that since in all these charges the allegations are relating to the suspension and revocation of licences, these decisions to be taken in the collective wisdom and hence at any stretch of imagination these may not fall under the expression "willful" within the meaning of Section 5(5) of the Act. Incidentally, several other questions had been argued that in a routine way the Government had relied upon the report of the second respondent and there was no independent application of mind by the Government as such and even otherwise no convincing reasons had been recorded, and hence, the impugned order is liable to be quashed.

47. The power of judicial review while exercising certiorari jurisdiction and the principles relating thereto being well settled, the same need not be repeated again. However, the Counsel representing respondent No.6 placed strong reliance on **Surya Dev Rai v. Ram Chander Rai** (supra) wherein the Apex Court while dealing with Article 227 of the Constitution of India and Section 115(1) proviso (after Amendment by Act 46 of 1999) of the Code of Civil Procedure, 1908, observed at paragraph 38 as hereunder:

"Such like matters frequently arise before the High Courts. We sum up our conclusions in a nutshell, even at the risk of repetition and state the same as hereunder:

(*1*) Amendment by Act 46 of 1999 with effect from 1-7-2002 in Section 115 of the Code of Civil Procedure cannot and does not affect in any manner the jurisdiction of the High Court under Articles 226 and 227 of the Constitution.

(*2*) Interlocutory orders, passed by the courts subordinate to the High Court, against which remedy of revision has been excluded by CPC Amendment Act 46 of 1999 are nevertheless open to challenge in, and continue to be subject to, certiorari and supervisory jurisdiction of the High Court.

(*3*) Certiorari, under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction i.e. when a subordinate court is found to have acted (*i*) without jurisdiction — by assuming jurisdiction where there exists none, or (*ii*) in excess of its jurisdiction — by overstepping or crossing the limits of jurisdiction, or (*iii*) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby
occasioning failure of justice.

(*4*) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.

(*5*) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (*i*) the error is manifest and apparent on the face of the proceedings

such as when it is based on clear ignorance or utter disregard of the provisions of law, and (*ii*) a grave injustice or gross failure of justice has occasioned thereby.

(*6*) A patent error is an error which is self-evident i.e. which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view, the error cannot be called
gross or patent.

(*7*) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the above said two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred thereagainst and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(*8*) The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or
technical character.

(*9*) In practice, the parameters for exercising jurisdiction to issue a writ of certiorari and those calling for exercise of

> supervisory jurisdiction are almost similar and the width of jurisdiction exercised by the High Courts in India unlike English courts has almost obliterated the distinction between the two jurisdictions. While exercising jurisdiction to issue a writ of certiorari, the High Court may annul or set aside the act, order or proceedings of the subordinate courts but cannot substitute its own decision in place thereof. In exercise of supervisory jurisdiction the High Court may not only give suitable directions so as to guide the subordinate court as to the manner in which it would act or proceed thereafter or afresh, the High Court may in appropriate cases itself make an order in supersession or substitution of the order of the subordinate court as the court should have made in the facts and circumstances of the case.

48. No doubt the learned Counsel for the writ petitioner made certain submissions that the decision making process also is vitiated. The stand taken that the decisions had been taken in the collective wisdom and hence as individual the writ petitioner cannot be held responsible, in the considered opinion of this Court, especially, in the light of Rule 28 of the Rules referred to supra, cannot be a sustainable contention. Apart from this aspect of the matter even in the defence there was assertion of inherent power and the statutory provisions and the Rules governing the field had not been put forth to defend the action in proper perspective. May be this exercise of power by the writ petitioner, had been taken by the Government as abuse and after recording certain reasons, made the impugned order. Incidentally, the opinion of respondent No.2 also had been referred to, but by that itself, it cannot be said that there was no independent application of mind by the Government.

49. The term or expression “willful” may have to be appreciated in

the context of a backdrop of a given case. When charges had been made relating to the abuse of Office while exercising the power, while asserting that the plea of inherent powers had been put forth, it may have to be taken that this assertion was deliberate, and when a deliberate assertion had been made, it may have to be taken that the same is nothing but short of willful. Even otherwise, when certain reasons had been recorded by the Government, and in the light of the relevant portions of impugned order referred to supra and also in the light of the limitations placed on this Court as a writ court while exercising certiorari jurisdiction, in the overall facts and circumstances, this Court is well satisfied that the Writ Petition is devoid of merits and accordingly, the same shall stand dismissed. No order as to costs.

(P.S.NARAYANA, J)

Dated:06-12-2007
Note:LR copy to be marked.
B/o.
vs

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[1] 2003 (6) SCC 675
[2] AIR 1985 SC 582
[3] (1994) 6 SCC 332
[4] (1999) 7 SCC 569
[5] (2005) 7 SCC 627
[6] (2007) 7 SCC 206
[7] AIR 1967 SC 295